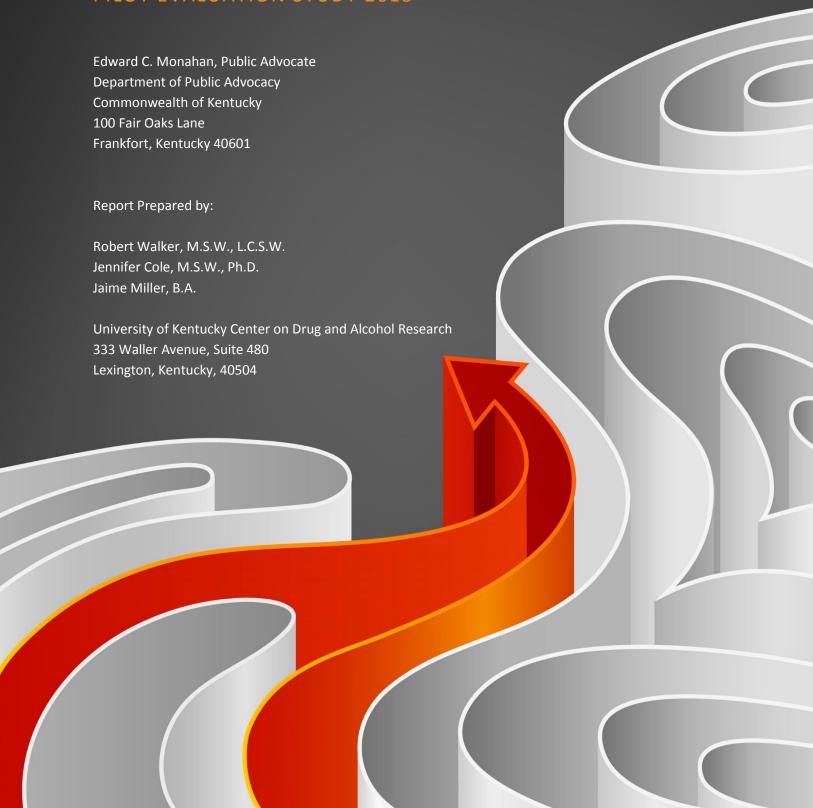
THE KENTUCKY DEPARTMENT OF PUBLIC ADVOCACY SOCIAL WORKER ALTERNATIVE SENTENCING PROGRAM PILOT EVALUATION STUDY 2013



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In May 2013, Harvard University's John F. Kennedy School of Government and its Ash Center for Democratic Governance and Innovation announced its top 25 award winners for 2013. The Roy and Lila Ash Center for Democratic Governance and Innovation advances excellence and innovation in governance and public policy through research, education, and public discussion. Among the top 25 innovators for 2013 was the Kentucky Alternative Sentencing Social Worker Program. The award brought national recognition to this new program, but the Department of Public Advocacy that manages the program also felt a need to begin generating information about the effects of the program. With this in mind, the department initiated a contract with the University of Kentucky Center on Drug and Alcohol Research to examine the outcomes of the project.

A pilot study was conducted to test some of the key concepts and methods that will be incorporated into a comprehensive annual evaluation of the effects of the Department of Public Advocacy's Social Work Alternative Sentencing Program. The findings from this pilot must not be taken as generalizable facts about the overall program because we only used a small convenience sample of cases to examine potential effects of the program. This brief summary report includes a review of the pilot study's goals, methods, findings about client characteristics, and information about costs and cost offsets. The report also provides a brief description of the program and its legislative background.

BACKGROUND

The Kentucky Department of Public Advocacy (DPA) is a component of the overall Kentucky Justice system. With 30 district offices in 2012, its 2012 expenditures of \$41.5 million represented 3.18% of overall justice expenditures. Fully 87% of the funding for the DPA is state general funds. The annual expenditures by the DPA are \$6 million less than the state spent on criminal justice training. The DPA handled 185,702 cases in 2012 for an average overall defense cost per client of \$223.56.

HB 463

The DPA provides representation to 35,000+ felony cases each year. Among these, many have serious drug and alcohol related offenses that suggest outstanding substance abuse problems as well as mental health problems. The need for more focus on substance-related offenders increased further with HB 463, which went into effect on June 8, 2011. HB 463 was enacted by the 2011 General Assembly to reduce unnecessary incarceration of individuals who presented low risk of harm to the public and who could benefit from rehabilitation services. HB 463 created a new section to KRS Chapter 532 focused on the Department of Corrections with this language about the new policy:

"SECTION 1.

The primary objective of sentencing shall be to maintain public safety and hold offenders accountable while reducing recidivism and criminal behavior and improving outcomes for those offenders who are sentenced.......

SECTION 2.

The primary objectives of the department shall be to maintain public safety and hold offenders accountable while reducing recidivism and criminal behavior and improving outcomes for offenders under its supervision. The department shall create and implement policies and programs to achieve these objectives."

While the DPA does not fall directly under the requirements for compliance with HB 463, all components of the justice system were clearly encouraged to contribute to the reduction of unnecessary incarceration. Even prior to HB 463, the DPA had begun to recognize the importance of developing more assertive alternative sentencing plans to bring before the court. With this in mind, the DPA launched a pilot program in 2006 by placing social workers in field offices, paired with defense attorneys. Based on these early pilots, more were subsequently added with Federal Stimulus Grant funding in 2009, thus bringing the current number of social workers to eight.

The human face on the problem

The backdrop of HB 463 sets the policy agenda for this alternative sentencing program. However, behind the policy are lives that have been dramatically affected by substance abuse and extraordinarily problematic family histories. To set the stage for what these data can tell policy makers, it might be useful to consider the lives of the persons at the point that the DPA social worker began working with them.

"Janey"

"Janey" was a 30-year-old single Caucasian, female. When the social worker first met her, she was incarcerated at the Taylor County Detention Center on a Robbery 2nd degree charge. During her incarceration, she developed an open MRSA staph infection. She reported having a substance abuse problem and voiced the need for help. She also reported some mental health symptoms and history, such as PTSD, depression, and past suicidal thoughts and self-harming tendencies. Prior to incarceration, she had lived with girlfriend of 1 year, but if released from custody now she would reside with her mother and brother. Janey had been sexually abused as a child by her father. Janey's mother has a mental disorder which she described as a "chemical imbalance." Both of Janey's parents abused drugs and/or alcohol. She reported that she got most of her support from her maternal grandparents as a child. However, as she became an adult, she sought assistance through the local mental health center in her community.

"Bill"

"Bill" was 40 years old, divorced, and facing two felony trafficking charges and Persistent Felony Offender Charges in the 1st Degree. He acknowledged cocaine and alcohol dependence for almost 30 years but knew that he now needed to get sober and begin a life of recovery. The DPA social worker arranged a placement

for him in a Recovery Center if the Judge approved this plan. Bill admitted to the social worker that his life was in great distress and that something needed to be done to turn it around. The social presented a plan for a long term placement in The Healing Place in Campbellsville, Kentucky.

What the social workers do

The process by which social workers develop alternative sentencing plans *includes thinking of rehabilitation as part of the client's defense*, but in a unique way. Defense is typically tasked with advocating on behalf of clients' liberty interests. What is different about this approach is that it takes a longer view of client liberty interests. That is, the attorney wants to work to help keep clients out of incarceration but also less likely to be re-arrested or stumble back into a situation of being in state custody. So the solution was to build alternative sentencing plans around careful assessment of needs for rehabilitating the individuals who were facing incarceration. The fact that these alternative sentencing plans are developed as part of defense rather than being just a response to prosecution ideas means that client participation is typically much more robust. Instead of simply being directed to a program, the client and social worker first work out what the person needs, then locate a program, then present a plan to the court. The social worker then maintains an open file on the case for six months to monitor client progress.

Districts with DPA Social Workers

There are eight field offices with a social worker attached to the defense team. The field offices with social workers are Owensboro, London, Prestonsburg, Covington, Madisonville, Columbia, Hopkinsville, and Bowling Green.

The specific functions of the social worker

All cases for the DPA social workers come about on referral from the client's defense attorney. Essentially, the attorney believes that the client is in need of some rehabilitation or social service and needs a specialist to work up a plan for those services. In 2012, there were 1,053 cases assigned to the DPA social workers. These cases fell into two major types: (1) Clients needing merely a referral into some clearly identified service (including making arrangements for hospital admissions); and (2) Clients who needed a complete assessment and service plan drafted for presentation to the court. It is the second of these that are the focus of this report as they are the ones that represent the central response to the policy needs defined by HB 463. In these cases, the social worker interviews clients, assesses needs based on social history data collection, and, when indicated, consults with community providers to assess suitability for referral.

Seven of the eight DPA social workers held master's degrees in social work in 2012 and one was working toward that degree. All of the DPA social workers have been trained in the most relevant evidence-based practice for this kind of service – Motivational Interviewing (Miller & Rollnick, 1991; 2002). This approach allows for a gentle eliciting of client desire for services and change rather than direct confrontation. It is very consistent in style with the entire philosophy of defense work as it hinges directly on client commitment to change processes and a willingness to participate in services. The technique facilitates rather than directs change processes.

Using Motivational Interviewing, the DPA social workers conduct an assessment session that includes gathering social history information but also specific clinical characteristics, symptoms and clients' history of service use. The assessment data will soon be entered into the DPA database, but throughout 2012 were simply collected in hard copy format. The data collected includes demographic as well as clinical information.

About twice per year, the social workers meet for a group supervision session to examine case characteristics, difficult clients' assessments and other related problems. During these sessions they also share new information about state policies, problems or solutions in gaining client access to programs, as well as offering insights and support based on their practices.

METHOD

This report summarizes pilot data collected on closed cases among a convenience sample of 20 clients whose cases were closed by 31 December 2012 and who had had 12 months post court disposition. Three of the social workers were asked to select cases with no bias in terms of client characteristics other than being certain that each case was closed. While this convenience sample in no way leads to any generalizations about the effectiveness of the program, it gives the DPA an opportunity to examine some of the underlying premises upon which the program is based. It offered an opportunity to test out the methodology that will be employed when the new data system is in place. Once that is done, the evaluation will include all open and closed cases within a year.

Instruments

A data collection tool was developed by UK CDAR in concert with the DPA social workers and DPA management.

Population and sample

In SFY 2012, there were 1,053 clients served by the DPA social workers. Among the 1,053 cases, 433 were involved in merely making contact with a service provider for an immediate transfer or referral of a client into community services. Another 620 (58.9%) required complete assessments and alternative sentencing plans to be submitted to the court. Among the 620 with plans submitted to the court, 526 were accepted by the court and used to issue alternative sentencing orders. Thus, 84.8% of all proposals made to the court were accepted and made part of the adjudication of the case.

To begin understanding the effects of the program on clients' incarceration and related costs, this pilot study used a convenience sample of 20 out of the 526 cases that had accepted alternative sentencing plans submitted and accepted by the court. The social worker reviewed each client record and entered data on a form developed by UK CDAR. This instrument was an abbreviated version of the tool that will be used for all cases once the complete management information system is up and running.

Demographics

As shown in Table 1 below, this convenience sample suggests a predominance of males among the DPA clients eligible for the alternative sentencing services. Sixty percent were male and the age distribution results in an average age of 31 years.

TABLE 1. DEMOGRAPHICS OF DPA CLIENTS AT ASSESSMENT (N=20)

	Frequency	Percent
Gender		
Male	12	60.0
Female	8	40.0
Age when services began:		
21-25	4	20.0
26-30	9	45.0
31-35	2	10.0
36-40	2	10.0
41-45	2	10.0
46-50	0	0.0
51+	1	5.0
Mean age at plan development		31

Employment

The clients had seriously low employment rates at the time of developing their alternative sentencing plans with only 45% having had any employment in the past 12 months. Among those with employment in the past 12 months, only 5% had held full-time employment. At the time of the social worker interviews, fully 80% were unemployed; this is largely related to the fact that 80% were incarcerated and had lost what minimal employment they had held.

Living arrangements and health and other status

Interestingly, only 15% of the clients had their own home or apartment in the past 12 months while 70% lived with family or friends. Only 20% had any health insurance and all who had insurance had Medicaid. The lack of Medicaid coverage for 80% of these individuals suggests a barrier to easy access to health and rehabilitation services that may exist even under the Affordable Care Act when it takes full effect in 2014. Over half of the individuals (52.6%) had received some form of mental health care in the past.

Alternative sentencing needs and recommendations

The alternative sentencing plans did not involve merely a one-step referral to a program. The DPA social workers develop a more comprehensive plan that itemizes what merits first consideration and what needs can be addressed through follow-up or follow-along services. Thus, a client might be referred to a residential treatment center for substance abuse but then also be referred for follow-up counseling and employment services. We present primary and secondary recommendations in this pilot study.

Of the 20 individuals included in this pilot study, 18 had a primary service target of some form of substance abuse intervention and 2 had a primary target of mental health services. As shown in Table 2

below, the distribution of service needs was very wide and suggests that the referral demands on the social workers are complex. The number of primary and secondary target interventions totals more than 20 as many clients were referred to multiple services in the plans.

TABLE 2. PRIMARY AND SECONDARY SERVICE NEEDS (N=20)

	Frequency	Percent
Primary target needs for diversion service plan		
Substance abuse treatment	18	90.0
Mental health treatment	2	10.0
Employment assistance (vocational rehab)	1	5.0
Disability	1	5.0
Medical treatment	1	5.0
Social services (community agencies)	1	5.0
Secondary target needs for diversion service plan		
Mental health treatment	12	60.0
Housing assistance	6	30.0
Employment assistance (vocational rehab)	6	30.0
Education	5	25.0
Social services (community agencies)	2	10.0
Getting social services or disability	1	5.0

The recommendations to the court factored in not only need but also client buy-in and feasibility of service plans. Thus, the plans represented client agreement with the ideas presented in the plans before they were presented to the court. Seven of the 20 were recommended for placement in a Recovery Kentucky residential facility and 6 were recommended for placement in a residential treatment facility. Two were recommended for outpatient substance abuse counseling and one for psychiatric hospitalization. Others were referred to outpatient mental health services, medical treatment, and social and vocational services. Almost half (43.8%) of the individuals would have been homeless upon release from jail or prison if they did not have a diversion plan in place.

Specific recommendations

Counting all the primary and secondary recommendations for services, Table 3 shows the entire range of services that clients were referred to among this convenience sample. The numbers add to more than 20 because of multiple referrals for each client. Also, some mental health services were inclusive of substance abuse treatment as the clients had co-occurring conditions.

TABLE 3. TOTAL OF REFERRAL RECOMMENDATIONS TO THE COURT (N=20)

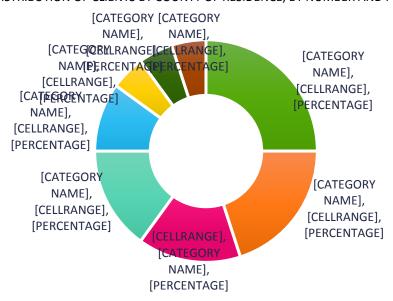
	Frequency	Percent
Recovery Center admission	7	35.0
primary recommendation	7	35.0
Residential treatment center admission	6	30.0
primary recommendation	6	30.0
Outpatient substance abuse treatment program	2	10.0
primary recommendation	1	5.0
Psychiatric hospital*	1	5.0
primary recommendation	1	5.0
Medical treatment	1	5.0
Outpatient mental health services ²	1	5.0
Employment assistance (vocational rehab)	4	20.0
primary recommendation	1	5.0
Social services	2	10.0
Mental health case management ³	3	15.0
Disability application	1	5.0
Other	6	30.0
primary recommendation	4	20.0

^{1, 2, 3} Includes serious substance abuse plus mental illness in the intervention

Area of the state

The counties of residence of the clients is shown in Figure 1 below. For this convenience sample, the greatest number was from Taylor County (5 or 25%). The county with the next largest number of clients was Laurel with 4 (20%).

FIGURE 1. DISTRIBUTION OF CLIENTS BY COUNTY OF RESIDENCE, BY NUMBER AND PERCENT (N=20)



Disposition

An alternative sentencing arrangement was offered to 19 of the 20 clients, of whom, 11 received a decreased sentence and 6 received outright probation. Two pled guilty to lesser charges, but none had charges dismissed. Eighty percent of the clients were incarcerated at the time the alternative sentencing plan was presented to the court.

FINDINGS

This sample of 20 clients whose records were closed in 2012 gives an idea of the ways in which the program might result in serious cost offsets while it diverts individuals from incarceration into community services.

Expected sentences based on charges before the court

To estimate the fullest effects of having a social worker alternative sentencing support service, we first considered the potential sentencing arrangement for a court in the complete absence of any diversion services. This first step merely sets an outside limit of what the full sentencing costs might be if the courts only followed a punishment agenda.

The range of severity and number of charges per client was quite varied. Half of the 20 clients had more than one charge and one client had nine charges. There were 49 charges in all for the 20 clients.

The co-occurrence of multiple charges could have affected expected sentences and may have influenced final court decisions, even though several charges were eventually dismissed by the court. The charges included assault, 4th degree (misdemeanor, unless 3rd domestic violence, then a 1-5 felony), DUI (misdemeanor, unless a 4th, then a 1-5 felony), possession of controlled substances (1st (1-3 year Class D felony) and 3rd degree misdemeanor), theft by deception (if under \$500, misdemeanor, but if over \$500 and less than \$10,000, 1-5 year Class D felony, and if over \$10,000, then 5-10 Class C felony) theft by unlawful taking (same as theft by deception), tampering with physical evidence (1-5 class D felony), DUI aggravator (included in DUI), misrepresentation to receive benefits (1-5 Class D felony), resisting arrest (misdemeanor), criminal possession of a forged instrument (depends on degree, but if a check would be 2nd degree and 1-5 Class D felony), and numerous other driving related offenses on top of other drug (Without knowing what other drug offenses cannot really say) or alcohol charges. The maximum sentence for these chargers is 20 years if run consecutively. If the 20 clients had received the expected sentences for all charges before the court, the group would have faced 14,577 days in jail or prison, or an average of 729 days per client.

The actual sentences imposed versus actual number of months served

This pilot study examined the outcomes for 20 cases for the 12 months following a plan being approved by a court. Thus, while several of the 20 individuals might have had multiyear sentences, we only examined the days served in the 12 months following the plan being accepted by the court. The savings resulting from days served within the 12 months do not include any savings that might accrue beyond

this 12 month period. Also, the number of days served does not include credit for time served prior to adjudication.

The twenty clients' court imposed sentences, taken as a group summed to 4,515 days in jail or prison, for an average of 226 per client, or about seven and one-half months each. However, when we examine just the days that would have been served in the 12 months post disposition (thus limiting sentences to 365 days), the aggregate number of days in the first 12 months would have been 3,055. The total number of days actually served over the 12 months after the court disposition of the cases was 470 in jail or prison for an average per client of 23.5. The actual number of days served is 15.4% of the sentence that would have been expected during the 12 months post disposition for this group of 20 clients who had alternative sentencing plans approved by the court.

Cost differences – likely sentences, actual sentences versus time served

We took the total number of days that might have been served by this sample of 20 clients and compared them to the actual sentences, and the number of days that could have been served in the 12 month study period. We then converted these days into costs using state average estimates for per diems in correctional facilities. We used a new average per diem cost figure actually represented in 2012 by the Department of Corrections that was not shown in the 2011 table of facility costs. We used the total state inmate average cost of \$49.77 (DOC, 2012). We then compared the cost of expected sentence to imposed sentence and then compared this to actual days served post adjudication. The days served and cost estimates are shown in Table 4.

TABLE 4. DAYS FOR EXPECTED SENTENCE, IMPOSED SENTENCE AND ACTUAL DAYS SERVED AT STATE INMATE AVERAGE PER-DIEM COST (\$49.77) (N=20)

	DAYS	COST	AVERAGE PER CLIENT
Potential expected sentence	14,577	\$725,497	\$35,105
Total imposed sentence	11,815	\$588,032	\$29,402
Amount of the sentence that could be served within the 12-month study period	3,055	\$152,047	\$7,602
Actual days served post disposition	470	\$23,392	\$1,170

We took the same days incarcerated and applied those days to a jail per diem rate. While some of the clients in this sample might have been prison cases and might have been costed at a higher rate we considered examining them at the lower rate as well to establish a reasonable range of cost offsets. Thus we examined a maximum and minimum cost savings estimate to exhibit this range.

TABLE 5. DAYS FOR EXPECTED SENTENCE, IMPOSED SENTENCE AND ACTUAL DAYS SERVED AT JAIL PER-DIEM RATE (\$34.91) (N=20)

	DAYS	COST	AVERAGE PER CLIENT
Potential expected sentence	14,577	\$508,883	\$25,444
Total imposed sentence	11,815	\$412,462	\$20,623
Amount of sentence that could be served within the 12-month study period	3,055	\$106,650	\$5,332
Actual days served post disposition	470	\$16,408	\$820

The costs of DPA Social Worker Interventions

In order to arrive at a *net* value of the DPA alternative sentencing effort, we also had to consider the cost of the interventions. We factored in the per client cost of the DPA attorney services to maximize the possible Cabinet for Justice and Public Safety expenditures on these cases. The average per client cost for DPA services (excluding the social workers) for FY 2012 was \$220.87. To estimate the social worker cost per client, we examined the total expenditures for social workers and added those costs to the other DPA costs.

Social worker costs

In FY 2012, the year for this pilot study, the total expenditures for the social workers was \$499,489. The social workers had 1,053 cases overall in 2012, with 620 cases having an actual alternative sentencing plan prepared by the social workers. The 620 cases represented the overwhelming majority of labor time and effort compared to the remaining 433 cases. We estimated that 75% of overall social worker effort and costs were assigned to the alternative sentencing process. Of the 620 alternative sentencing work-ups, 526 cases had plans that were accepted by the court for an 84.8% acceptance rate. The total expenditures for the eight social workers' salary, fringe benefits, plus their travel, IT and IT support was \$499,489 in FY 2012. The Alternative Sentencing project accounted for \$374,616 of the total social worker costs for the year. This resulted in an estimated per client cost for the social worker alternative sentencing service of \$604. Combining the average attorney costs with the social worker cost, we arrived at a total per client cost of \$825 for FY 2012.

Return on investment

We took the costs of the DPA alternative sentencing services and analyzed them in relation to imposed sentence costs and actual days served during the 12 months post case disposition in court. The results are shown in Table 6 using an average state inmate per diem cost and then in table 7 using the jail per diem rates. In both tables, we also show a return on the investment which is a way to render the cost offsets from using the DPA alternative sentencing services. This approach suggests that for each dollar of investment in DPA alternative sentencing services there is between a \$6.80 and \$4.47 savings to be realized.

TABLE 6. PER CLIENT RETURN ON INVESTMENT CALCULATIONS WITH A PRISON PER DIEM RATE (N=20)

PRISON RATE COST OF	COST OF	CRUDE COST	COST OF DPA	NET	RETURN ON
SENTENCES POSSIBLE IN	ACTUAL	DIFFERENCE	0001 01 0171	SAVINGS	INVESTMENT
		DITTERCE			IIIVESTIVILIAT
12 MONTHS	TIME			PER CLIENT	
	SERVED				
\$7,602	\$1,170	\$6,433	\$825.09	\$5,608	\$1:\$6.80

TABLE 7. PER CLIENT RETURN ON INVESTMENT CALCULATIONS WITH A JAIL PER DIEM RATE (N=20)

JAIL RATE COST OF	COST OF	CRUDE COST	COST OF DPA	NET	RETURN ON
TIME POSSIBLE IN 12	ACTUAL TIME	DIFFERENCE		SAVINGS	INVESTMENT
MONTHS	SERVED			PER CLIENT	
\$5,332	\$820	\$4,512	\$825	\$3,687	\$1:\$4.47

CONCLUSIONS

This report summarizes the preliminary findings from a pilot study of the outcomes of the DPA Alternative Sentencing Program. Using a convenience sample of 20 cases from FY 2012, we examined their potential sentences for an outside range of possible costs of incarceration in the absence of any possible alternative sentencing arrangements. Then, we examined the cost of the clients imposed sentences. We also examined the cost of actual time served following the disposition of the cases that included an acceptance by the court of the alternative sentencing plans. We then analyzed costs, netting out the cost of the program, in order to arrive at an estimate of the net reductions in likely incarceration costs resulting from the use of the DPA program. Using two per diem rates we found high and low end cost offset amounts. These offset amounts can be rendered as returns on investments. At the high end there was a cost/benefit relation of \$1:\$6.80 and in the low end there was a relation of \$1:\$4.47. These ratios can be stated such that for every dollar spent on the DPA alternative sentencing program, there was a savings of \$4.47 to \$6.80.

Limitations

This study had several limitations. First, this was a pilot using only a convenience sample. Thus, there are serious limits to generalizing from these findings. Second, the sample was small and may have excluded the kind of variance that is more likely in larger samples. Third, all the data were extracted from historical records after one year. Thus, there may have been distortions or inaccuracies due to inadequate record information. One purpose of this pilot was to create a framework for the full study which will begin once all client records are entered into an electronic case management system for the social workers.

The goal for the next year's report will be to include every case in the DPA Alternative Sentencing Program, thus sampling concerns should be well addressed. Nonetheless, this pilot study suggests substantial reductions in incarceration costs from using the DPA program. With a clear and direct public policy articulated in HB 463, there is a clear mandate to reduce incarceration costs. This report did not consider cost shifting as that concern is not reflected in the mandate from HB 463. Other Federal block grants, Medicaid, and other state general funds may have been used to provide services to this sample of clients. However, their costs to these funding sources may well be offset by the changes coming to Kentucky in the Affordable Care Act.

What happened to those lives after the DPA alternative sentencing program?

"Janey"

With Janey's difficult history, the DPA social worker thought a more intensive treatment plan was needed. So, before going to court with any recommendations, she sought out placement possibilities. She found a residential treatment program that also offered longer term follow-up services after intensive residential care. She took this recommendation to the court. The DPA social worker recommended referring Janey to Chrysalis House for long-term substance abuse and mental health treatment. The Judge was agreeable to the referral and released client to attend after serving a 120 day alternative sentence, thus probating the remainder of her 7 year sentence for 5 years. Without the help from her DPA social worker, Janey would have faced several years in prison. She might have gotten help there with her problems, but the alternative sentencing services made treatment much more readily available and the state avoided a long-term incarceration cost.

"Bill"

The judge accepted the plan for alternative sentencing for Bill. The sentence was for 10 years probated for 5 years conditional upon completion of his recovery services at the Healing Place. Bill did complete the program, has remained abstinent, has not re-offended, is re-married and paying on old obligations in District Court. Without the DPA social worker's active engagement in setting up a viable recovery plan for Bill, he would be sitting in prison today, not contributing to his own wellbeing or to society. He potentially could have cost society nearly \$130,000 had there not been a plan to get him into community-based services. Instead, he is working his way back into being a responsible citizen.